

REMARKS

Claims 56-87 are pending. Claims 1-55 have been canceled.

Claims 56-87 stand rejected under 35 U.S.C. § 102(a) as being anticipated by "A Method* For Fast IPv4 and IPv4 CIDR Address Translation and Filtering Using the MUSIC WidePort LANCAM®, LANCAM®, and LANCAM® 1st Family," dated January 1998 ("LANCAM"). Claims 56-87 also stand rejected under 35 U.S.C. § 102(a) as being anticipated by "Fast IPv4 and IPv4 CIDR Address Translation and Filtering Using the MUAC™ Routing Coprocessor (RCP)," dated January 1998 ("MUAC").

Applicants submitted an Inventor's Declaration under 37 C.F.R. § 1.132 on February 15, 2005, containing an unequivocal statement that (1) the subject matter of both LANCAM and MUAC relevant to the claims (Relevant Subject Matter) was derived from the Applicants, and (2) the Applicants actually invented the Relevant Subject Matter.

The Office Action states at page 9 that the declaration filed February 15 is insufficient to overcome the rejections because "it consists of mere allegation, and provides no factual evidence nor an unequivocal statement supporting the claims of authorship of LANCAM and MUAC or if said were published on their behalf, nor how publications were derived from the Applicants. (Please see MPEP 710.10.)"

Applicants respectfully submit that the Declaration by Mr. Feldmeyer filed February 15 is sufficient to overcome the rejections under § 102(a). MPEP 710.10 states "[a]n uncontradicted 'unequivocal statement' from the applicant regarding the subject matter disclosed in an article, patent, or published application will be accepted as establishing inventorship. *In re DeBaun*, 687 F.2d 459, 463 . . . (CCPA 1982)." In this case, Applicant David Feldmeyer has made a sworn declaration under 37 C.F.R. § 1.132,

which is admissible factual evidence. The declaration unequivocally states “that (1) the subject matter of the LANCAM Publication relevant to the claims (Relevant Subject Matter) was derived from the Applicants, (2) the subject matter of the MUAC Publication relevant to the claims (Relevant Subject Matter) was derived from the Applicants and (3) the Applicants actually invented the Relevant Subject Matter.” This declaration is not contradicted by any evidence.

Mr. Feldmeyer’s declaration that he is co-author of both LANCAM and MUAC is included as further evidence that Applicants actually invented the relevant subject matter. MPEP 716.10 does not require “an unequivocal statement supporting the claims of authorship,” “if said were published on their behalf,” or “how publications were derived from the Applicants,” as the Office Action suggests. So long as the Applicant’s invented the subject matter described in the published article, an unequivocal statement of inventorship is sufficient to overcome the rejections, regardless of the authorship of the article.

The Office Action also suggests at page 9 that “if the Affiant and Mr. Arnold are indeed the sole authors, that Mr. Arnold also submit a declaration to such facts mentioned above.” Applicants respectfully submit that a declaration by Mr. Arnold is unnecessary because the declaration by Mr. Feldmeyer is unequivocal and uncontradicted.

Applicants respectfully submit that the Declaration filed February 15, 2005, establishes inventorship of the relevant subject matter of LANCAM and MUAC. Accordingly, neither LANCAM nor MUAC is prior art under 35 U.S.C. § 102(a). Therefore, the rejection of claims 56-87 under 35 U.S.C. § 102(a) should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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